

SPECIAL CIVIL APPLICATION No 8114 of 1999

Hon'ble MR.JUSTICE A.R.DAVE

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GANESH SAHAKARI GRAHAK MANDLI LTD

Versus

COLLECTOR

Appearance:

MR MUKESH R SHAH for Petitioner

MR UMESH TRIVEDI, AGP, for Respondent No. 1

MR SK BUKHARI for Respondent No. 2

CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 06/12/1999

### ORAL JUDGEMENT

Rule. Learned AGP Shri Umesh Trivedi waives

service of rule for respondent No. 1 and learned advocate Shri S.K. Bukhari waives service of rule for respondent No. 2.

The petitioner has been aggrieved by an order dated 1/4.10.1999 whereby the application given by the petitioner for converting the land in question into non-agricultural from agricultural land has been rejected. Upon perusal of the impugned order, it appears that the original owner of the land in question has filed Regular Civil Suit No. 817/99 in the court of the Civil Judge (S.D), Baroda. Because of pendency of the said suit, the application given by the petitioner was rejected.

It has been submitted by learned advocate Shri M.R. Shah that pendency of the suit cannot be a reason for rejection of his application. Learned AGP Shri Trivedi was constrained to concede the fact that there was no stay order or no interim order passed against the government authorities in the said suit so as to prevent the government authorities from considering the application dated 12.8.99 submitted by the petitioner to the concerned authority for converting the land from agricultural land to non-agricultural land.

Looking to the undisputed facts stated hereinabove, it appears that the concerned authority has erred in law by rejecting the application dated 12.8.99 submitted by the petitioner for converting the land in question into non-agricultural land.

In the circumstances, the impugned order dated 1/4.10.1999 is quashed and set aside and respondent No. 1 is directed to consider the application dated 12.8.99 submitted by the petitioner afresh without considering the fact with regard to pendency of the civil suit referred to hereinabove.

As substantial time has passed, it is directed that the said application shall be scrutinised as soon as possible and respondent No. 1 shall take appropriate decision preferably within 30 days from the receipt of this writ by him.

The petition is finally disposed of as allowed.  
Rule is made absolute with no order as to costs.

Direct service permitted.

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